

## Chapter MPSW 20

### CONDUCT

#### MPSW 20.01 Definition.

**Note:** Chapter SFC 20 was created as an emergency rule effective April 26, 1993.

**Note:** Chapter SFC 20 was renumbered ch. MPSW 20 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register October 2002 No. 562.

**MPSW 20.01 Definition.** “Gross negligence” in the practice of social work, or marriage and family therapy, or professional counseling means the performance of professional services that does not comply with an accepted standard of practice that has a significant relationship to the protection of the health, safety or welfare of a patient, client, or the public, and that is performed in a manner indicating that the person performing the services knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.

**History:** Cr. Register, November, 1993, No. 455, eff. 12-1-93.

**MPSW 20.02 Unprofessional conduct.** Unprofessional conduct related to the practice under a credential issued under ch. 457, Stats., includes, but is not limited to, engaging in, attempting to engage in, or aiding or abetting the following conduct:

- (1) Performing or offering to perform services for which the credential holder is not qualified by education, training or experience.
- (2) Violating a law of any jurisdiction, the circumstances of which substantially relate to the practice under the credential.
- (3) Undertaking or continuing performance of professional services after having been adjudged incompetent by any court of law.
- (4) Using fraud or deception in the application for a credential.
- (5) Using false, fraudulent, misleading or deceptive advertising, or maintaining a professional relationship with one engaging in such advertising.
- (6) Engaging in false, fraudulent, deceptive or misleading billing practices.
- (7) Reporting distorted, false, or misleading information or making false statements in practice.
- (8) Discriminating on the basis of age, race, color, sex, religion, creed, national origin, ancestry, disability or sexual orientation by means of service provided or denied.
- (9) Practicing or attempting to practice while the credential holder is impaired due to the utilization of alcohol or other drugs, or as a result of an illness which impairs the credential holder's ability to appropriately carry out the functions delineated under the credential in a manner consistent with the safety of a client, patient, or the public.
- (10) Revealing facts, data, information, records or communication received from a client in a professional capacity, except in the following circumstances:
  - (a) With the informed consent of the client or the client's authorized representative;
  - (b) With notification to the client prior to the time the information was elicited of the use and distribution of the information; or
  - (c) If necessary to prevent injury to the client or another person;
  - (d) Pursuant to a lawful order of a court of law;
  - (e) Use of case history material for teaching, therapeutic or research purposes, or in textbooks or other literature, provided

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that proper precautions are taken to conceal the identity of the client; or

(f) When required pursuant to federal or state statute.

(11) Engaging in sexual contact, sexual conduct, or any other behavior with a client which could reasonably be construed as seductive. For purposes of this rule, a person shall continue to be a client for 2 years after the termination of professional services.

(12) Failing to provide the client or client's authorized representative a description of what may be expected in the way of tests, consultation, reports, fees, billing, therapeutic regimen or schedule.

(13) Failing to avoid dual relationships or relationships that may impair the credentialed person's objectivity or create a conflict of interest. Dual relationships prohibited to credentialed persons include the credentialed person treating the credentialed person's employers, employees, supervisors, supervisees, close friends or relatives, and any other person with whom the credentialed person shares any important continuing relationship.

(14) Failing to conduct an assessment, evaluation, or diagnosis as a basis for treatment consultation.

(15) Employing or claiming to have available secret techniques or procedures that the credential holder refuses to divulge.

(16) In the conduct of research, failing to inform study participants of all features of the research that might reasonably be expected to influence willingness to participate; failure to ensure as soon as possible participants' understanding of the reasons and justification for methodological requirements of concealment or deception in the study; failure to protect participants from physical or mental discomfort, harm or danger, or to notify the participant of such danger; and failure to detect and remove any undesirable consequences to the participants resulting from research procedures.

(17) Failing to inform the client of financial interests which are not obvious and which might accrue to the credential holder for referral to or for any use of service, product or publication.

(18) Failing to maintain adequate records relating to services provided a client in the course of a professional relationship. A credential holder providing clinical services to a client shall maintain records documenting an assessment, a diagnosis, a treatment plan, progress notes, and a discharge summary. All clinical records shall be prepared in a timely fashion. Absent exceptional circumstances, clinical records shall be prepared not more than one week following client contact, and a discharge summary shall be prepared promptly following closure of the client's case. Clinical records shall be maintained for at least 7 years after the last service provided, unless otherwise provided by federal law.

(19) Violating any of the provisions of ch. 457, Stats.

(20) Failing to notify the board that a license, certificate or registration for the practice of any profession previously issued to the credential holder has been revoked, suspended, limited or denied, or subject to any other disciplinary action by the authorities of any jurisdiction.

(21) Failing to make reasonable efforts to notify a client or a client's authorized representative when professional services will be interrupted or terminated by the credential holder.

(22) Gross negligence in practice in a single instance, or negligence in practice in more than one instance.

**(23)** Having a license, registration, or certificate permitting the practice of marriage and family therapy, professional counseling, or social work, or authorizing the use of the title “marriage and family therapist,” “professional counselor,” “social worker”, or similar terms revoked, suspended, limited, or subjected to any other discipline, by any other jurisdiction.

**History:** Cr. Register, November, 1993, No. 455, eff. 12-1-93; CR 01-026: am. (13), Register December 2001 No. 552, eff. 1-1-02; CR 02-105: am. (intro.) (1), (4), (9), (15), (17), (20), (21) and (23), Register October 2002 No. 562, eff. 11-1-02; **CR 05-043: am. (18) Register December 2005 No. 600, eff. 1-1-06.**